

**Minutes of the  
Tobacco Education and Research Oversight Committee (TEROC)**

January 13, 2003

Continental Plaza Auditorium

601 North 7<sup>th</sup> Street

Sacramento, CA 95814

**MEMBERS PRESENT :**

Bruce Allen, Lourdes Baézconde-Garbanati, Theresa Boschert, Gregory Franklin, Alan Henderson, Susan Hildebrand-Zanki, Kirk Kleinschmidt, Cheryl Raney, Dorothy Rice

**MEMBERS ABSENT :**

Stella Aguinaga Bialous, Ron Arias, Rod Lew

**OTHERS IN ATTENDANCE:**

Greg Austin, WestEd

Dileep G. Bal, Chief, Cancer Control Branch, Department of Health Services (DHS)

Brian Blum, Media Campaign Unit (MCU), Tobacco Control Section (TCS), DHS

Diana Bontá, Director, DHS

Dawn Chesini, Colusa County Tobacco Education Local Program

Tacey Derenzy, Local Programs Unit (LPU), TCS, DHS

Christine Fenlon, California Medical Association Foundation (CMAF)

Linda Fong, Asian Pacific Islander Tobacco Education Network (APITEN)

Anne Gouré, American Cancer Society (ACS)

C. Larry Gruder, Director, Special Research Projects, Tobacco Related  
Disease Research Program (TRDRP), University of California (UC)

Cynthia Hannah, MCU, TCS, DHS

Greg Oliva, Chief, Program Planning and Policy Development, TCS, DHS

Rich Heintz, Local Lead Agency Project Directors' Association

Delphine Henri, MCU, TCS, DHS

Amy Hicks, Budgets Office, DHS

Paul Hunting, LPU, TCS, DHS

Jenn Ibrahim, UC San Francisco

Kathony Jerauld, Data Analysis and Evaluation Unit (DAEU), TCS, DHS

Cindy Jones, Sacramento County Office of Education

Paul Kneprath, American Lung Association (ALA) of California

Sean Kinic, ALA of the East Bay

Paul Koretz, Assemblyman, California Legislature

John Lagomarsino, Sacramento City Unified School District

Roberta Lawson, LPU, TCS, DHS

Cyndi Lewis, Campaign for Tobacco Free Kids

Jon Lloyd, Chief, DAEU, TCS, DHS

Jeanne Machado-Derdowski, Medi-Cal, DHS

Peter Mackler, Southern California Policy Liaison, Director's Office, DHS

Carolyn Martin, Consultant

John Miller, Legislative Staff

Paul Mitchell, Preventing Tobacco Addiction Foundation

Sharon Muraoka, ACS

Tony Najera, Consultant, Director's Office, DHS  
Cathy Palmer, Chief, Administrative and Contract Support Unit, TCS, DHS  
T. J. Peterson, Safe & Healthy Kids Program Office (SHKPO), California Department of Education (CDE)  
April Roeseler, Chief, Local Programs and Evaluation, TCS, DHS  
Doug Robins, Chief, LPU, TCS, DHS  
Meredith Rolfe, Chief, SHKPO, CDE  
Bill Ruppert, TCS, DHS  
Robin Rutherford, SHKPO, CDE  
Robin Shimizu, Assistant Chief, TCS, DHS  
Colleen Stevens, Chief, MCU, TCS, DHS  
Claradina Toya, American Indian Tobacco Education Network  
Michael Tucker, California Department of Finance  
Traci Verardo, Next Generation Alliance  
Rhonda West-Peters, African American Tobacco Education Network

### **1. WELCOME, INTRODUCTIONS, AND OPENING COMMENTS**

The Chairperson, Kirk Kleinschmidt, called the meeting to order at 10:10 a.m. Each of the Committee members introduced themselves. Members of the audience also introduced themselves and identified their affiliations. The Chairperson announced some changes to the order of the agenda.

### **2. APPROVAL OF MINUTES, REVIEW OF CORRESPONDENCE AND ANNOUNCEMENTS**

The November 7, 2002, minutes were approved with the following changes: The Bullock decision on page 2 should read \$28 billion, and the WestEd report should be changed in accord with the correction supplied by WestEd. The Chairman stated that all of the Action Items have been completed or will be addressed at this meeting, including the letter to the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc.(ASHRAE) to be signed and sent January 13, 2003.

The Chairperson reviewed the correspondence and noted that he received information that the California Assembly may schedule a hearing on the new Master Plan in the spring. The Chairperson thanked the members and staff who worked hard to make the TEROC portion of the National Tobacco Conference a success. He acknowledged and congratulated Stella Aguinaga Bialous for her article on tobacco smuggling by the tobacco industry in Latin America, and Rod Lew for his keynote address on disparities at the National Tobacco Conference.

### **3. ENVIRONMENTAL DEVELOPMENTS**

The Chairperson and members announced that:

- In addition to the recent passage of smoke-free initiatives in Florida and two counties in Nevada; Boston and New York City have just passed major smoke-free ordinances; and clean air legislation is in the process of being enacted in Chicago, St. Louis, and Dallas.
- In December 2002, the court reduced the Bullock award from \$28 billion to \$28 million.
- Philip Morris is using litigation to stop untaxed cigarettes from coming on the market.
- On September 18, 2002, the National Cancer Institute announced an eight-year clinical trial of spiral-commuted tomography for early detection of lung cancer.

#### **4. BUDGET UPDATE**

Michael Tucker, from the California Department of Finance (DOF), presented an overview of the recently released Governor's Budget for fiscal year (FY) 2003-04, as it affects Proposition (Prop) 99 funds. The enclosed spreadsheet outlines revenues and expenditures for FYs 2001-02, 2002-03, and 2003-04. Mr. Tucker pointed out:

- Estimated Prop 99 revenues for FY 2003-04 would be \$27.5 million less than for 2002-03, primarily due to \$16 million less in carry-over and a reduction of \$12 million in cigarette tax revenue.
- Changes in Tobacco Control Funds: There will be a \$4.4 million reduction in the DHS/TCS media campaign, a \$1 million reduction in DHS/TCS state administration, a \$1.5 million reduction for DHS/TCS Local Lead Agencies, a \$0.124 million reduction for TERO and Evaluation, and a \$0.4 million increase for DHS/TCS competitive grants. There will be no change for CDE or the Tobacco Related Disease Research Program (TRDRP).
- The Governor's proposed tobacco tax increase will dedicate funds to help cover services being realigned to county responsibility. Prop 99 programs would receive 100 percent backfill (for loss of funds due to the higher tax), estimated at \$31 million for FY 2003-04.
- A \$26.8 million increase from the Prop 99 Hospital Services Account funds will go to the Access to Infants and Mothers program, a priority of the Governor.

Mr. Tucker explained how estimates are made for carry-over and for the Prop 10 backfill amounts, and passed out the formula for computing the Prop 10 backfill (see enclosed). No carry-over is projected from the current year to the budget year. The Governor's proposed budget does not include the \$10.4 million added by the Board of Equalization (BOE) to the staff recommendation of \$16.8 million, and BOE is waiting until its February meeting to address a possible appeal from the Prop 10 Commission. Mr. Tucker said the Governor was open to Committee recommendations on the division of backfill and Prop 99 funds.

Mr. Tucker explained that, because a large portion of the bonds securitized by Master Settlement Agreement (MSA) payments have not yet been sold, \$220 million in MSA funds will be available for use in FY 2003-04 and have been designated for the Healthy Families Program. He was asked to explain the fluctuation from year to year in the "pro-rata" Prop 99 line item expenses in the handout. He answered that these expenses are to cover the cost managing the Prop 99 accounts. He noted that, although the "pro-rata" expenses have fluctuated greatly in the past, they now appear to have stabilized.

When asked about the effect of the cut of \$6.5 million from TCS programs, Dr. Dileep G. Bal, with DHS, replied that this will be the lowest budget for media in ten years, the program will have to do more with less, some of the program will have to be reduced, and the message will have to be more aggressive and more strident. The \$1 million cut in administration represents about ten positions and TCS is working with DHS' Budget Office to find a way to support the positions. Dr. Bal said he did not think ten positions would be cut. Jose Ortiz from the DHS Budget Office said that DHS is seeking federal funding for some programs that could free up funds in the Unallocated Account. There were questions and discussion of why TCS received cuts but CDE did not. Statements from Committee members showed a consensus for making cuts equitably across the agencies funded from the Prop 99 Health Education Account (HEA).

The Chairperson said that the Committee should consider taking positions on: 1) the proposed \$1.10 per pack tax increase since currently there is no provision to earmark a portion of this money to tobacco control; 2) the BOE February 2003, meeting; and 3) the distribution of the cuts.

He introduced Dr. Diana Bontá, Director, DHS, and thanked her for her presentation and support at the National Tobacco Conference in November 2002. Dr. Bontá said that DHS programs would suffer major cuts totaling \$4.5 billion (a 14.2 percent reduction). She said all programs are impacted and we must see the tobacco control program in the context of the total picture. She stated that to deal with the severe budget shortfall, the key treatment programs are being maintained, especially health services for children. Within Medi-Cal there will be substantial cuts in provider reimbursement rates and elimination of many adult outpatient services. She explained that the State would realign several programs to be administered by the counties. She affirmed that, despite budget difficulties, DHS is committed to the tobacco control program and that she will continue to work collaboratively with the Committee.

## **5. LEGISLATIVE UPDATE**

Assembly Member Koretz commended the Committee and the tobacco control advocates for their work, and discussed the following issues that could impact tobacco control:

- The proposed \$1.10 tax increase: he supports it, saying it will reduce the number of smokers, at least some of the tax revenues should be earmarked for health care services and prevention, backfill is important.
- Cuts in health care: he is concerned that such cuts will cost the State much more money in the long run and cause unnecessary suffering and death.
- Assembly Bill (AB) 221 (Koretz) – a bill to raise the smoking age to 21: he believes it will reduce the number of smokers because most kids become addicted at age 17-21.
- AB 71 (Horton) – a tobacco retailer licensing bill: he believes it is important and is concerned about preemption.
- AB 210 (Nation) – a bill to protect people living in condominiums and other multi-family housing from secondhand smoke coming from other units.

Assembly Member Koretz said there are good opportunities for tobacco control legislation this year in the State Legislature. He said there is support for the tax increase, but that it will be difficult to get some money earmarked for tobacco control. He advised the Committee to identify strong anti-tobacco legislators and advocate for the earmark with them.

Mr. John Miller said he also believed that there are opportunities in the current budget crisis environment for tobacco control. He encouraged the tobacco control movement to get involved in the budget process and demand that some of the revenue from the tobacco tax increase be earmarked for prevention. Mr. Miller suggested several advocacy opportunities:

- The licensing bill is greased to go through the legislature, and advocates can impact the contents of this bill to bring some new money to tobacco control.
- A mitigation fee on the tobacco industry (to offset the harm done by tobacco products) may be easier to accomplish than a tax increase (majority vote versus two-thirds) although there are questions about the measures' legality, considering the MSA. No legislation has been introduced.
- The Committee and advocates should identify a half dozen key legislators, such as Mr. Vargus, Mr. Koretz, and Mr. Frommer and work with them.

## **6. PROGRAM REPORTS BY AGENCIES**

(Each agency sends a written report to TEROCC prior to the meeting and responds to questions at the meeting.)

### **6a. DHS TCS Report**

Evaluation - TCS announced that the Wave III Evaluation report has been approved and will be available in a month or two. TCS presented its surveillance and evaluation structure, as well as current funding for each component. Current components will be sustained under the proposed budget, but further reductions will require cuts in the special population surveys. When asked about the differences in the TCS and CDE student surveys, and whether they could be combined to reduce duplication, TCS pointed out:

- CDE surveys (both the California Student Survey and the California Healthy Kids Survey) cover a broad spectrum of health issues and contain comparatively few questions related to tobacco. Also, the survey is administered only to students.
- In contrast, TCS surveys ask students, teachers, administrators, and district coordinators, about program implementation, knowledge of policies, lessons taught and recalled, etc.
- TCS' in-school tobacco survey results, but not CDE's tobacco survey results, are accepted by the Centers for Disease Control and Prevention as comparable with results for the rest of the United States.
- TCS is specifically mandated to evaluate the effectiveness of the in-school Tobacco Use Prevention and Education (TUPE) Program, not collect surveillance data on attitudes and behaviors.

Committee members expressed concern about the flat smoking prevalence rates. Some members expressed concern that things have to go to the Deputy level for approval and stressed the process must be streamlined and more agile. Some expressed doubts that the media campaign is currently aggressive enough or that it will be permitted to become more aggressive (one member defined "aggressive" as "in-your-face, anti-tobacco industry"). Dr. Bal said he is also very concerned that the adult smoking prevalence rate has not gone down in years. He said that the media unit is planning more aggressive and more focused ads; that the pressure is on the counties to be more strident, including enforcement of clean air laws; and that the program is getting into areas the industry is focusing on. The Chairman commented that there still are 4.7 million smokers in California, and noted that if we had that many persons with smallpox or Human Immunodeficiency Virus (HIV), everyone would be screaming. A member stated that it does not appear that we have a clear, cohesive strategy to address where we should go in the future.

Stop Tobacco Access to Kids Enforcement (STAKE) Act Purchase Surveys – TCS addressed the fact that in 2002, the illegal sales of tobacco to kids had increased to 19.3 percent, noting that if the illegal sales rate goes above 20 percent it could affect the receipt of the Federal Substance Abuse Prevention and Treatment Block Grant. TCS has examined the problem county by county and sees a need for licensing, increased state signage, more community enforcement, and additional STAKE Act enforcement officers. It was also noted that the current licensing bill (AB 71) still does not include the money necessary for enforcement of tobacco control laws. TCS has met with the Attorney General's (AG) Office regarding enforcement of the laws, is planning radio and other media messages to remind the public of the laws, is attempting to get more assistance from the Alcohol and Drug Program to address this problem, and is examining the need for training in Penal Code (PC) 308 enforcement.

Media - TCS reported that the last group of ads was approved in ten days and there are assurances that future ads will be treated likewise. Ten ads are currently in the concept stage. TCS distributed a handout showing TCS ads, strategy, target audience, and medium (see enclosed). The proposed strategy for the \$4.5 million decrease in funds is to have fewer ads, aired for less time, and targeting fewer groups. There was discussion of who should be involved in the media decisions, how to determine the effectiveness of ads, how many ads are needed, and the benefits of rerunning existing ads versus producing new ads. TCS explained that managing the media campaign is a complex process involving decisions about the number of ads, potency, frequency, mediums, and various markets and costs. TCS agreed to keep the Committee informed of any focus groups as they get scheduled so that members can attend if they wish.

#### **6b. AG's Report**

Dennis Eckhart of the AG's Office, Legal Affairs, Public Rights Division, explained the organizational structure and goals of the Tobacco Litigation and Enforcement Section (see enclosed). The section enforces the MSA, defends against challenges to the MSA, monitors the payment process, manages the escrow agreement, and enforces non-participating manufacturers' statutes and consumer protection provisions. He emphasized two important provisions of the MSA: the tobacco industry is not to make material misrepresentation of facts regarding the health consequences of using any tobacco product, and it may not target youth with its advertising and promotion. In fact, the industry is targeting and reaching youth at a level virtually equal to adults. He explained a successful suit pursued by the AG's office based on the MSA language against youth targeting in which the court ordered Philip Morris and R.J. Reynolds to significantly reduce their advertising in certain magazines with a large youth readership. The AG has also been successful in enforcing PC 308 prohibition on passing out free tobacco samples.

Mr. Eckhart added that his section's budget has been stabilized but funds for consultants, such as expert witnesses, have been cut. Funds from monetary judgments go into the State's General Fund. Regarding the legality of a possible mitigation fee, Mr. Eckhart said the AG has no official opinion on this, and he added that to tie a mitigation fee to health effects would be difficult because the MSA excludes all current and future claims on that basis.

#### **6c. CDE, SHKPO Report**

CDE reviewed several items in its written report previously sent to TERO, and passed out some additional handouts (see enclosed). CDE pointed out the letter in the meeting packet from the State Superintendent of Public Instruction to the districts advising them not to accept funds from the tobacco industry or to use any tobacco curriculum provided by the industry (see enclosed). In response to a question concerning the rate of successful quitting by students who participate in cessation programs in the schools, CDE said that they do not know specific local outcomes and that the question would take a controlled study.

Budget - CDE reviewed fiscal figures from a handout (see enclosed) and addressed the following issues:

- Funds for grades 9-12 grants have a three-year life, and unspent funds revert to the HEA. No funds reverted in FY 1999-00 because AB 1107 gave additional life to the funds.

- CDE staff is funded from multiple sources; the staff conducts school on-site monitoring of multiple programs.
- County Offices of Education (COE) funding varies by county (e.g., Sacramento County gets \$125,000 and most rural counties get \$25,000) and generally COE's review grants and provide technical assistance at the local level.
- CDE regards the funding to COEs as direct service and not administration. Some COE staff are full-time and some part-time, and CDE does not know how many full-time equivalents there are at the COE level.

When asked whether CDE could improve their tobacco education and prevention system, CDE said that they are working hard and smart, that the statistics bear this out, and that a workgroup is looking into ways to improve the program.

Mr. Greg Austin from WestEd reviewed the handout concerning the California Healthy Kids Survey (CHKS). He stated that no other state has the built-in accountability that California has with its data collection and county coordinators (see enclosed). CHKS shows that the schools with TUPE funds have improved in four of the six measures; however, there is little change in daily smoking. WestEd measures the effectiveness of cessation classes and grants on a broad scale, so specific outcomes are hard to track. He said a separate special study is needed for that, and that DHS/TCS is responsible for evaluating the school program.

In response to a question and discussion concerning how to get CHKS data, Mr. Greg Austin said WestEd would provide county-level data to anyone who requests it.

#### **6d. UC, TRDRP Report**

On behalf of UC, TRDRP thanked the DHS Director for her presentation and support at the Annual Investigators Meeting in November 2002. TRDRP reviewed for the Committee the items in its written report previously submitted to TERO. There were questions concerning the Community-Academic Research Awards (CARA) and School-Academic Research Awards, the coordination with CDE and the need for coordination with TCS on CARA Awards and other issues of common interest. TRDRP said that they would be happy to meet with TCS and CDE to facilitate better coordination, as requested by the Committee, and TCS agreed to make the arrangements for the meeting in the spring.

### **7. PUBLIC QUESTIONS AND COMMENTS**

There were no public comments.

Before adjournment of the meeting, the Committee Members discussed a letter that they wished to send to the Governor. It was decided that the letter was to express support for the proposed tobacco tax increase, contingent upon 20 cents of the \$1.10 per pack tax increase being dedicated to tobacco prevention/cessation services. The letter also was to emphasize the importance of providing a backfill to Prop 99 tobacco control and research programs to compensate for reductions in their funds resulting from the tax increase. In addition, the letter was to recommend that any reductions in the budgets for anti-tobacco education programs should be applied equitably, on a pro rata basis, across agencies. And, finally, the letter is to express support for continuation of the comprehensive and balanced approach to tobacco control that has proven so effective in the past.

### **NEXT MEETING DATES:**

February 24, 2003, 10 a.m. to 4 p.m., Los Angeles, Master Plan Utilization Meeting

March 24, 2003, 10 a.m. to 5 p.m., Oakland, Regular Meeting

May 19, 2003, 10 a.m. to 5 p.m., Sacramento, Regular Meeting

**The meeting was adjourned at 5:00 p.m.**

### **ACTION ITEMS**

1. TEROC will monitor the February 2003, BOE meeting regarding the increased Prop 10 backfill amount.
2. DHS/TCS will give advance notice to TEROC members of media focus groups so that they may attend if they wish.
3. DHS/TCS will arrange a TEROC meeting at which TRDRP, CDE, and DHS will discuss ways to improve coordination among the three agencies. The purpose would be to: 1) increase TRDRP research that would improve program interventions, and 2) identify ways to more efficiently use research and evaluation resources.
4. TEROC will send a letter to the Governor regarding the proposed FY 2003-04 State budget. The letter will:
  - Support the proposed \$1.10 increase in the tobacco tax, contingent upon dedicating 20 cents of the new monies raised by the tax increase to tobacco control.
  - Reinforce the need for backfill to Prop 99 programs for the loss in funds from the \$1.10 tax increase.
  - Recommend that any reduction in Prop 99 revenues be applied equally between the agencies administering HEA-funded programs.

### **ENCLOSURES**

1. Copy of DOF's handout "Briefing by Finance January 13, 2003."
2. Copy of Prop10 "Backfill" Methodology and Documentation of Calculations.
3. Copy of DHS/TCS slides for evaluation presentation.
4. Copy of DHS/TCS media handout "Tobacco Education Media Campaign Advertisements."
5. Copy of slides for AG's Office presentation.
6. Copy of CDE's December 20, 2003, letter to school districts regarding tobacco industry.
7. Copy of CDE's handout "2002-2003 TUPE Funding."
8. Copy of CDE's handout "Safe and Healthy Kids Factsheet 2."
9. Copy of CDE's handout "Health and Safety Code Sections for California Department of Education Smoking Cessation Programs."